

When a retailer allows a purchaser a discount from the selling price on the basis of a discount coupon for which the retailer receives no reimbursement from any source, the amount of such discount is not subject to tax. See 86 Ill. Adm. Code 130.2135. (This is a GIL).

September 17, 2002

Dear Xxxxx:

This letter is in response to your letter that we received on June 20, 2002. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be accessed at <http://www.revenue.state.il.us/Laws/regs/part1200/>.

In your letter, you have stated and made inquiry as follows:

It is hereby requested that an expeditious review of this taxability request be granted in order that accurate advice be given to patrons of your state.

Company X is a retailer. Company X provides various services such as delivery, miscellaneous labor charges and administrative fees.

**General Overview & Fact Pattern:**

A better understanding of various charges is requested as they are applied to retailers that supply building materials and services.

*Coupons*

When retailers offer discount coupon with no reimbursement of any kind, which basis should tax be calculated; gross sales or adjusted sales after discount?

In some situations, competitor's coupons are honored with no reimbursement from the competitor. Which basis should tax be calculated; gross sales or adjusted sales after discount?

*Restocking Charges*

Restocking charges are applied when a customer returns goods. This charge represents an administrative fee for personnel time exhausted in placing goods back into inventory.

Are restocking charges taxable?

*Incidental Fees*

Many bulk goods are stored on pallets. A customer may be charged a broken pallet charge if the entire pallet of goods is not purchased.

Are incidental charges such as broken pallet charges subject to tax?

*Blocking and Band charge*

A customer may request bulk goods be wrapped and banded for transport. The charge may consist of labor and material.

Are charges for blocking and banding goods a taxable sale?

Are charges for blocking and banding goods for a customer taxable when separately stated from the sales to tangible personal property?

*Idle Time Charges*

When drivers encounter unexpected delays caused by a customer, an idle time charge is billed to the customer.

Are idle time charges taxable?

Are idle time charges taxable when separately stated on an invoice that also consist of a separately charge for tangible personal property?

*Dumpster Pickup and Delivery*

Per customer request, dumpster pickup and delivery may be performed.

Are dumpster pickup and delivery charges taxable?

Are dumpster pickup and delivery charges taxable when separately on invoice for tangible personal property?

*Hauling Charges*

After delivery to a job site, a customer may request that rubbish and/or other non-hazardous materials are taken to an authorized dumpsite.

Are hauling charges taxable services?

Are hauling charges taxable when separately stated on an invoice with tangible personal property?

*Real Property Services*

Is labor to perform real property services taxable?

Ex: Land clearing, Hauling debris and rubbish etc...

*Dry Ice*

Are Sales of dry Ice taxable?

*Trailer moving*

At the request of the customer, a trailer may be moved from one job site to another.

Are trailer moving fees taxable?

*Rental of cranes with operators*

Retailers may be requested to deliver goods to various job sites. Cranes are stored on the back of the delivery trucks for unloading goods. Occasionally customer will request various services of the delivery driver. For instance, roofing tiles will be placed on roof

tops as well as other designated places. The delivery driver maintains complete control of the machinery and remains an employee of the retailer.

Are charges for crane service with an operator taxable?

Are charges for crane service with an operator taxable when separately stated on an invoice where this a charge for tangible personal property?

Are charges for crane service without an operator taxable?

Should you have any questions with regard to the above request, please don't hesitate to call.

The enclosed copy of 86 Ill. Adm. Code 130.2125 explains the taxability of discount coupons. When a retailer allows a purchaser a discount from the selling price on the basis of a discount coupon for which the retailer receives no reimbursement from any source, the amount of such discount is not subject to tax. Only the receipts actually received by the retailer from the purchaser, other than the value of the coupon, are subject to tax.

If the retailer is reimbursed by any source for the value of the discount coupon, those receipts are subject to tax. The retailer incurs tax liability on the receipts received from the purchaser and the amount of any coupon reimbursement. While the person reimbursing the retailer technically incurs the Use Tax on the value of the coupon, most coupons contain language indicating that the bearer of the coupon will pay this Use Tax liability as a condition of using the coupon.

When retailers charge customers for restocking returned merchandise, the receipts retained by the retailer to cover the restocking charge are not considered taxable gross receipts for purposes of Retailers' Occupation Tax.

Illinois Retailers' Occupation Tax is imposed upon gross receipts from the sale of tangible personal property to end-users and gross receipts is defined to mean all the consideration received by sellers valued in money whether received in money or otherwise, but not including the value of or credits given for like kind traded-in property. In computing Retailers' Occupation Tax liability, no deductions shall be taken by a taxpayer from gross receipts on account of the cost of the property sold, the cost of materials used, labor costs, or any other expense whatsoever. See 86 Ill. Adm. Code 130.410, enclosed. The fact that labor charges may be separately stated does not mean they are not part of the selling price or gross receipts upon which the tax is measured. As a result, the idle time charges and broken pallet charges are costs of doing business and are subject to tax.

Illinois does not tax the sale of personal services that do not involve the transfer of tangible personal property. Consequently, charges for hauling rubbish, moving trailers, dumpster pickup or land clearing are generally not subject to sales tax so long as they do not involve the transfer of tangible personal property to the customer.

The sale of services that is accompanied by the transfer of tangible personal property, such as wrapping goods for transport, is subject to tax liability under the Service Occupation Tax Act. Under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred as an incident of their sales of service. Servicemen incur either Service Occupation Tax (SOT) liability or Use Tax liability in these transactions. The tax consequences depend upon the method used to calculate the liability. Servicemen must calculate their tax base in one of four ways: 1. separately stated selling price; 2. 50% of serviceman's entire bill; 3. SOT on his cost price if he is a registered de minimis serviceman; or, 4. Use Tax on his cost price if he is a de minimis serviceman not required to

be registered under Section 2a of the Retailers' Occupation Tax Act. Please see 86 Ill. Adm. Code 140.101 and 140.105.

We note your letter states that Company X is a retailer. If a de minimis serviceman makes retail sales it is required to be registered under Section 2a of the Retailers' Occupation Tax Act. Such a serviceman would be a registered de minimis serviceman and could use the third method listed above. See 86 Ill. Adm. Code 140.109.

The tax status of dry ice depends upon how it will be used. If dry ice is purchased for on premises cooling purposes, then its sale is taxable. If it is purchased for the purpose of packing items such as meat for sale and the purchaser transfers it to customers with those items, then it can be purchased tax free on the basis of the resale exemption. Please refer to 86 Ill. Adm. Code 130.2070.

Regarding cranes, if the crane owner maintains operational control of the crane by moving the delivered product to the location desired by the customer, such charges can be a deductible service charge if they are separately stated on the invoice and initialed by the customer. See 86 Ill. Adm. Code 130.450. However, if cranes are rented for short periods where the possession and operational control of the crane is transferred to the customer, then the transaction would be a lease. The lessor would incur an Illinois Use Tax liability based on its cost price of the crane. See 86 Ill. Adm. Code 130.2010.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Karl W. Betz  
Associate Counsel

KWB:msk  
Enc.